



BRAZIL by Nina Ranieri

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Overview

Brazil is one of the most complex countries with respect to education policies and regulations. The biggest country in Latin America, it has a very large population (approximately 190 million inhabitants in 2010) and strong economic differences among states and regions, reflected also in the disparities and inequalities of the educational systems, as a result of a combination of extreme poverty and low education levels, among other factors. Although the processes of social reform in Brazil - launched by the Federal Constitution of 1988 – are showing significant progress when compared to previous periods and especially in the educational area, the reforms are still incomplete and there is ample scope for improvement in efficiency and equity.

The positive changes were promoted by the Constitution of 1988 under four basic conditions: the strengthening and universalization of social rights; the decentralization of competences; the new parameters for resource allocation and the redefinition of public-private relations with regard to funding and providing goods and social services. In education, the rationale of this model is the allocation of specific and concurrent responsibilities to each level of government (local, regional

and federal), from whom the Constitution stipulates mandatory minimum revenue investments. Municipalities are responsible for the lower levels of basic education (nurseries, kindergartens and fundamental schooling, from 0 to 10 years old), the States for the intermediate and higher levels of basic education (from 11 to 17 years old), and the Federal government for higher education as well as offering technical and financial support to all entities that need it. The financial system through which education is funded is regulated by an excellent legal system to ensure regular flows of public money. As such, considerable progress has been reached in the last twenty years. The educational levels of the population, in general, and of children in particular, have been increasing: during this period, Brazil has achieved some encouraging results, including almost full enrollment in fundamental education and less disparity between rural and urban areas in accessing education, though, apparently, with some sacrifice of quality for quantity.

According to official Brazilian data, in 2010 there were around 195,000 elementary schools, with approximately 51,500,000 enrolled students of whom 85.4% were in public schools and 14.6% in private schools. Furthermore, an analysis promoted by UNESCO between 2005 and 2007 – *A view inside primary schools* – demonstrates that one out of two students is enrolled in schools where most students, or all, come from families where parents had not completed primary education. Other initiatives, such as the quantitative expansion of technical courses in the upper educational levels through student scholarships and tax exemptions in benefit of education expenditures have also contributed to promoting equity of access and staying in school. The education policies in this period have particular relevance when considering the educational delay in Brazil, notably of public education, in comparison to other Latin America countries such as Argentina and Uruguay which had already universalized fundamental education at the beginning of the 20th century.

The results of the recent education policies are also remarkable when we take into account that in 1982 only 51% of the pupils entered public schools (in contrast to 87% of those entering private schools) at the prescribed age of seven,¹ and that in the early 1990s, only 36 % of the pupils completed the former eight grades of elementary schooling, while in the Northeast the rate was only 20%, with only 3% doing so without repeating a grade.² The dropout rate between third and fourth grade was 10% in 1997 and the primary schooling completion rate was 70% for the period of 1995-2001. Repeating grades has been a major issue and cost factor, while the fact that many rural schools offer only two grades makes it inevitable that many pupils do not have a realistic opportunity to complete elementary schooling, much less go on to secondary school.³ A study in the 1980s of schools in high-poverty areas found that

the state schools meet the standards of a minimally decent school in a poor country, with most of the essential ingredients necessary for basic operations.

. . . The municipal schools hardly qualified as schools.⁴

The challenge for the first decades of the 21st Century is to assure quality in education to all, which is no simple task, considering the extreme heterogeneity and complexity of the Brazilian education system as well as its bureaucratic characteristics.

The structure of schooling

The Brazilian schooling system is decentralized and quite complex at each level of activity. As a Federal State, the educational system comprises all 26 states and 5,561 municipal systems, besides those of the Federal government and of the Federal District; thus the educational systems in the country could reach the amazing number of 5.589 units. All the federal entities are entitled to legislate for their own education systems, under the Federal Constitution, the National Education Law – NEL⁵ and the National Education Plan - NED⁶ guidelines; as such, the education systems, both in private and public schools, have the autonomy to decide how to provide education in response to local needs and to provide the right services for each community (albeit this ‘autonomy’ is severely limited in the case of public schools because of lack of infra-structure and human resources). Nevertheless, the NEL imposes a minimum standard to be upheld all over the country, which includes not only a basic national syllabus at each level of education (fundamental and secondary), but also standards for teacher education, since the Constitution demands a guarantee of standards of quality.

The levels of Brazilian schooling are structured as follows: basic education, with four levels: nurseries (zero to three years old), pre-school (three to five years old), fundamental education (from six to 14 years old) and secondary education (from 15 to 17 years old). Basic education is compulsory and free (except for nurseries) and must be accessible to all, at any age.

Higher education (undergraduate and graduate programs) should become equally accessible to all, based on each one’s capacity, by all suitable means and especially by the progressive implementation of free lower education.

The legal framework

The right to education is inserted in the Federal Constitution as a social and an individual right.⁷ In this light, education is a duty of the State and will be provided by all the federate entities, as set forth in Article 205:

Education, which is the right of all and duty of the State and of the family, shall be promoted and fostered with the cooperation of society, with a view to the full development of the person, his preparation to exercise citizenship and his qualification for work.

The universalization of access to basic education, based on the fundamental principles of non-discrimination and equality of educational opportunities, also guaranteed by the Constitution,⁸ is also extended to the minorities under special conditions. In relation to children and adolescents, the right to education has absolute priority;⁹ as such, access to free and compulsory education is seen as a subjective right,¹⁰ the universalization of which and the responsibility of the public authorities ensured in case of not providing or offering it irregularly.¹¹

The Brazilian educational legal framework is a consequence of these constitutional norms and principles, to which the State Constitutions, State laws, municipal laws and regulations are subject. Overall guidelines are determined at the national level under the NEL¹² and the NEP.¹³ Many other federal laws give substance to the set of provisions relating to the enforcement of the right to education, namely: (a) the Child and Adolescent Statute – ECA,¹⁴ and procedural laws such as (b) the Civil Action Law,¹⁵ (c) the Administrative Probity Law,¹⁶ (d) the administrative liability laws,¹⁷ in addition to the procedural rules established by the Civil Procedures Code, the Writ of Mandamus and the Popular Action. This framework sees education as an individual and a social right.

In Brazil, over the last 100 years, five Constitutions (1891, 1934, 1946, 1967 and 1988) and at least six education reforms have faced educational challenges in the fields of equity, finance, access and quality. This legislation, until the Federal Constitution of 1988, is mostly characterized by the absence of educational policies and planning, by the adoption of measures in response to immediate conditions, and by normative over-detailing. Besides, during the first centuries, from Colony to Republic, education was not valued as an individual right, but marked by the dominant traits of our Catholic, agricultural, and slavery-based culture. Considered a regal right (*jus regio*), education was centralized by the Crown, which granted the authorization to teach and the appointments of professors, but kept then in penury. A study notes that throughout the 19th century, and throughout the country, education no longer met the needs of instruction even for the restricted groups of the dominant classes. The Country became independent with virtually the entire population illiterate. Authority under the Empire, between independence from Portugal in 1822 to the inauguration of the Republic in 1889, was relatively centralized, but the First Republic (1889/1930) developed a federal structure with significant powers devolved to the states. This was not maintained, however, in the context of the Vargas dictatorship (1930–1934, 1937–1945) which established a centralized administrative structure, continued and

intensified by the military regimes (1964–1985).

On the other hand, the Constitution of 1934 recognizes education as a social right and a duty of the State, guaranteed to all, as a result of the discussions and educational initiatives promoted in previous years by Member States (notably in São Paulo, with Sampaio Doria; Lourenço Filho in Ceará; Anísio Teixeira in Bahia and Fernando de Azevedo in the Federal District, among others, who were part of the reform group called *Pioneiros da Educação Nova*), as did the democratic Constitution of 1946. The Federal Constitution of 1946 adopted numerous measures to expand access to primary education and a federalist organization of education systems, this time with greater freedom of organization for the Member States, under supplementary activities of the Federal government to the extent of local and regional needs.¹⁸

After 1964, under the military regime, the imposition of authoritarianism sacrificed civil and political rights, but expanded social rights, which seems to prove that this kind of political regime sought to compensate the lack of political rights with social paternalism. Between the Constitution of 1967 and the Constitution of 1988, one of the key legal education provisions was the first National Education Law,¹⁹ enacted in 1961, which gave the country common guidelines.

As already mentioned, the Constitution of 1988 was a step forward in the field of education due to the strengthening and the universalization of social rights, the decentralization of competences and the new parameters for resource allocation. If at the outset, decentralization did not diminish rooted regional differences and disparities, it led the federal government to understand that the educational system required reform at a national level. The government started to work on new guidelines for education in 1988, but it was only in 1996 that a consensus was reached and the National Education Law – NEL²⁰ was approved, under the banner of decentralizing education and the flexibility of the educational process.

The NEL enactment occurred within the context of a strong international movement for education reform focusing urgently on education outcomes. After the 1990 Conference on Education for All, held in Thailand and promoted by many international organizations, nine countries – including Brazil – with weak education systems started the E-9 group, focused on designing a ten-year plan to achieve improvement in education. This international movement was another important impetus for reform and for a National Education Plan - NEP, launched by Law no. 10,172/ 2001 with a program covering 10 years.

The NEP, among other provisions, establishes the distribution policy of public resources for mandatory schooling and determines cooperation between the Federal entities for the development of education. However, despite the guidelines established by the Plan, which aim at a coherent and effective public policy all over

the country, they do not guarantee solutions to recurrent educational problems, such as the improvement of the quality of education, which implies technological and economic development. What's more, as the Constitution considers the coordination of educational policies mandatory, this gives new leverage to the National Plan as long as the conditions of its implementation are guaranteed by the State. Now there is a new National Plan of Education for the next 10 years to be discussed by the National Congress, and as of the enactment of Law 10,172, in the next few years, all states and municipalities will have to develop their own new plans for education with guidelines, objectives and evaluation criteria, according to the national plan and to the unique characteristics of the different regional or local situations, taking into account cultural and religious differences and socio- economic disparities.

The Federal Constitution, the NEL and the NEP, given the heterogeneity of the country, give special attention also to other forms of education such as special education, distance education and indigenous education by providing laws and procedures recognizing special forms of instruction within the framework of the national education objectives and evaluation criteria.

Financial system

Public education is funded by a complex fiscal system which combines federal, state and municipal tax revenues in a redistributive fund (Fundeb). As provided by Article 212 of the Federal Constitution, the Federal government shall apply no less than 18%, and the States, the Federal District, and the Municipalities, at least 25% of the tax revenues in education, annually. These percentages are mandatory and when not applied accordingly, interference from the federal government in the states, and likewise the states in the municipalities, is permitted by the Constitution. This is one of the rare situations where the federal autonomy of each entity can be breached.

Education and health are the only public social areas which are specifically treated by binding resources to tax revenue.²¹ Article 167, of the Federal Constitution clearly makes an exception of the prevailing prohibition of binding tax revenues to a public agency, fund or expense. Article 218 also provides that the States and the Federal District may allocate a share of their budgetary revenues to public entities which foster scientific and technological education and research.

The FUNDEB - Fund for Maintenance and Development of Basic Education – is a temporary fund for the maintenance and development of education with a redistributive objective. The financial mechanism used in FUNDEB obliged the federal government, the states and the municipalities to invest 60% of the resources allocated by the Constitution - the federal government 18% and the states and municipalities 25% of tax revenues - to

basic education, through the fund. The resources are distributed according to the number of students enrolled annually in the public schools maintained by each governmental entity, based on a minimum value per student established by the federal government. The federal government is obliged to supplement the fund whenever, in each state and in the Federal District, the nationally set minimum value per student is not reached by the responsible government entities. The distribution of the resources will also prioritize enrolments from the 1st to the 9th grade of basic schooling. The core of the idea of establishing a single educational fund was to rationalize the allocation of public educational resources, as well as to distribute the responsibilities and resources among the states and the municipalities, as stated in Article 211 of the Constitution.

The FUNDEB was created in 2006²² to replace the FUNDEF - Fund for the Maintenance and Development of Fundamental Education, originally aimed solely at fundamental education.²³ The new educational fund – FUNDEB – is foreseen to last fourteen years, when the target of 50 million students enrolled in basic education is achieved; and does not disoblige the states, the Federal District and the municipalities from applying the remaining 40% of the stipulated percentage in Article 212, of the Federal Constitution.

The former FUNDEF experience deserves some consideration. Despite the criticism that the impact of FUNDEF was less than expected, due to difficulties and limitations arising both from its conception and structure, as well as more general circumstances inherent in the social and political context of Brazil, FUNDEF achieved many of its goals. There was a significant increase in the total number of enrolled pupils: according to the Brazilian Institute of Geography and Statistics (IBGE), between 1995 and 2005 the percentage of children between the ages of seven to 14 not at school decreased from 9.8% to 2.6%; from the ages of 15 to 17, the decrease was from 33.4% to 18%. It also had an important impact on basic education, principally by changing the educational level of teachers, increasing the school periods, the number of teachers, as well as reducing the number of students falling behind. FUNDEF also prioritized expenditures on teachers and students instead of expenditure on infrastructure, and has especially made it possible for the areas lagging behind the rest of the country, like the North East and the cities with a low Life Condition Index – ICV. FUNDEF was an important and successful case of decentralizing fiscal resources in a country with a long tradition of centralized federalism. In 2009, the national expenditure on education reached 4.3% of the GDP, which corresponds approximately to US\$ 1,700 per student in public systems annually.

Private schools can also receive public resources,²⁴ if they are non-profit-making and reinvest their financial surplus in education only; it is indifferent for the purpose of receiving public funds whether they are religious, communal or philanthropic schools. The NEA²⁵ adds other conditions for public funding of private schools: in case of closure, the funds have to be reverted to other non- profit-making religious, communal or philanthropic schools or the government. The Public Ministry controls the allocation and expenditure of these resources in the schools.

Freedom to establish non-state schools

Under the Federal Constitution of 1988 non-state schools have ample freedom to be established. This is a result of the principle of freedom of teaching, which implies the freedom of learning, researching and expressing opinion, as well as a pluralism of ideas and of pedagogical ideas and conceptions. As such, the coexistence of public and private schools are guaranteed in article 206. Furthermore, article 170 ensures the free exercise of any economic activity to everyone, regardless of authorization from government agencies, except in the cases set forth by law; private education is one of these cases as set in article 209:

teaching is open to private enterprise, provided that the following conditions are met: I - compliance with the general rules of national education; II - authorization and evaluation of quality by the Government.

This means that powers are constitutionally imparted to the federal government and the states to control non-public education through National and State Boards of Education, respectively, as set by the NEL.²⁶ According to these provisions, private schools can be opened in any state and municipality, subject to compliance not only with national guidelines but also with state and municipal rules regarding education and schooling.

The NEL classifies non-State schools as: (a) private schools owned and operated by one or more private persons, under civil law; (b) private schools owned by a community, including nonprofit cooperatives that include community representatives on their boards; (c) private religious schools; (d) philanthropic schools.

As already mentioned, private education does not receive public funds directly but is sustained by private contributions and student fees, together with various tax advantages and government scholarships for pupils from low-income families. Students may receive scholarships for private school tuition from a variety of public sources at both state and federal levels, under Article 213 of the Federal Constitution.

Although not usually funded directly by government, private schools are extensively regulated, especially with regard to the tuition they charge parents: “approximately 240 different regulations concerning school tuitions were introduced in Brazil between 1986 and 1990.”²⁷ A study conducted by Brazilian researchers in the late 1980s compared the regulatory structure imposed upon public schools with that upon a group of private schools operated by an organization providing schooling under contract with large employers for the children of their employees, including a broad spectrum of social class. In the public schools, they found,

there is virtually nothing to be managed. . . . The state or the municipality hires teachers, and the principal has no authority in these matters. . . . The most important function of principals seems to be managing the battalion of janitors jammed on the payroll of what are generally decrepit schools. . . . In the [corporate] schools, by contrast, the principal is accountable to the sponsoring corporation [which] receives pressure from the employees to provide a decent school. Principals report that this pressure comes particularly from the more highly qualified workers, for whom a good school is part of their contractual arrangements. . . . In short, the appearance, inputs and patterns of management of the [corporate] schools are comparable to those of the typical private elite schools.

Teacher salaries in these schools are at least three times as high as those of teachers in public schools, in exchange for which they offer significantly more hours of instruction to their pupils; the researchers report that public school teachers average about ten hours of instruction a week.²⁸ This scenario hasn't changed very much in the last twenty years: the Brazilian government tends to be bureaucratic and regulates education excessively, in spite of the decentralization and flexibility guaranteed by the NEL.

That's why in the early 1990s, lawsuits concerning the State control of schools fees prevailed in the Brazilian Supreme Court – STF. The legal control of the augmentation of school fees was established by Law No. 8,039/90, under article 173, § 4 of the Federal Constitution which establishes that

the law shall repress the abuse of economic power that aims at the domination of markets, the elimination of competition and the arbitrary increase of profits.

In the vast majority of cases, the STF ruled in favor of State control of private school fees, establishing jurisprudence to safeguard the right to education from economic abuses on the part of private initiative.

Homeschooling

Home schooling is not regulated by law in Brazil. Nevertheless, as ruled by the Federal Courts, home schooling is not allowed as a legal consequence of compulsory attendance of basic education. The constitutional fundamentals of this jurisprudence reside basically in the national effort to eradicate illiteracy and to reduce school absenteeism, with the resulting benefits of removing children and teenagers from the streets, promoting awareness and preventing the exploitation of children, among others. Since the emergence of the ECA²⁹ penalties are imposed on parents and the

Penal Code defines “stopping to provide primary education without a reason for a school-age child” as a crime.

In the most significant case involving home schooling,³⁰ the Superior Court of Justice – STJ examined various issues related to fundamental rights, namely: the right to education, the rights of the family, the rights of children and adolescents, the duty of the State and the family in providing education and its relationship with the freedom of learning, teaching, researching and expressing opinions; the prevalence of parental choice of education offered to children; the criminal repercussions of non-school enrollment. But what was at stake, fundamentally, was the primacy of the family *status*, as the base of society,³¹ *vis à vis* the constitutional obligation of providing care in elementary school institutions.

The grounds for the decision of the STJ focused basically on three main aspects: a) school attendance as a right of the child laid down in the Constitution and regulated by the NEL and by the ECA; this regulation cannot be challenged by the philosophical beliefs of parents. b) Though recognizing the ability of parents to provide good education, it is not sufficient grounds to deprive the child of the right to school life. c) The judiciary system cannot neglect the legal system in favor of the philosophical and political convictions of parents. In this light, the Courts stated that the link between individual and collective participation in social life and in the public space require the formal transmission of a set of values and democratic principles to each generation. Therefore, in the Brazilian legal system, the freedom of learning is related to the choice between private or public school, pedagogical method of formal education and possible religious orientation, among other possible options, but not between schooling and home education.

School choice not limited by family income

Under article 206 of the Federal Constitution, basic and higher education are free in public schools and universities (as seen above, basic education includes nurseries, pre-schools, fundamental education and secondary education).

The Federal Constitution also entitles all children in fundamental school (six to 14 years), and at no cost to their parents, to be assisted by means of complementary programs providing school material, food and health care; government authorities and school officials can't refuse to provide these services, under the penalty of law.³²

On the other hand, because of the cost of private education, private schools are not accessible to all families; in general, attendance is correlated with social class. This makes it impossible to talk about equity in education respecting the values of each family. Choice is limited by family income at fundamental and secondary level schools, where only the

more prosperous classes can afford private education.

In Brazil, the debate is not on school choice but it is about education choice: the opportunity to receive an education rather than the opportunity to choose among the schools in which such education is provided. The priorities of the NEP are to guarantee access to education for all and to promote strategies to increase the completion rate at all levels of education, especially at the secondary levels, where the completion rate reached 34% in terms of age/grade distortion in 2009.

School distinctiveness protected by law and policy

The NEL is the law which governs education autonomy and school distinctiveness. Each school is free to decide for itself regarding programs and pedagogical approaches as well as being independent in the administration and management of its finances and resources. Each school has to respond to public administration regarding programs and student performance and to build programs according to national plans, state rules and municipal directives, in relation to the teaching level. This is true both for public and private schools, the only difference being that public funds are provided only to public schools, while private schools, under the Constitution, cannot access public funds. On the other hand, the NEL allows the organization of courses or experimental education institutions, under its provisions,³³ which means that there is room for innovation and distinctiveness.

Distinctive character

One important aspect of the Brazilian education system concerns the protection of different cultural expressions, i.e., popular, Indian, and Afro-Brazilian, as well as those of other groups participating in the nation building process. In this light, article 231 guarantees the Indians their social organization, customs, languages, creeds and traditions, as well as their original rights to the lands they traditionally occupy. Concerning linguistic diversity and the fundamental role that education plays in the protection and promotion of cultural expressions, Article 78 of the NEL was also designed to ensure bilingual education to the Indians, aiming at strengthening the cultural content and the mother tongue of each Indian community. Special attention is to be given to creating and implementing schooling systems for the indigenous community, and to create special books and didactic materials to sustain school programs consistent with the cultural framework and values of the indigenous community itself. The government also created special criteria for indigenous teaching and special evaluation criteria.

This is the most striking example of how the Brazilian government is trying to build a flexible system, under the control of the central government, respecting the autonomy of each state and giving attention to the local level by leaving significant decisions up to municipalities and schools. Indigenous education has always presented a problem for the Brazilian government, given the structure of indigenous communities and the cultural differences from the other ethnic groups in the country. The NEL also states that History and Afro-Brazilian Culture have to be part of the basic education curricula, as well as the teaching of the History of Africa and the Africans, the struggle of the Black people in Brazil, the Black Brazilian culture, and the role of the Black people in the construction of the Brazilian society.

Another distinctive character of Brazilian education system is the role of the Public Ministry in protecting and promoting the right to education. The Public Ministry is an independent governmental institution, both in federal and state spheres, whose function is the protection of the rule of law, the democratic regime, the public interests and fundamental rights.³⁴ Its members – the public prosecutors – represent society against the Federal government, States and Municipalities demanding the implementation of the laws and international treaties ratified by the country,³⁵ acting on behalf of an indefinite number of citizens whose rights – including the right to education, naturally - have been or could be jeopardized. In this complex context of judicial activities it is important to remember that the prosecutors do not protect individual rights directly but collectively, thus they usually deal with the representatives of the civil society such as union leaders, community leaders, NGOs, the media etc. In the fledgling Brazilian democracy – established in 1988 under the Federal Constitution - the role of the Public Ministry is crucial in all spheres that affect society, including education and the rights of disabled people.

Decisions about admitting pupils

Admission is free for basic education in public schools but, of course, this is subject to the size of the school and its capacity to serve a certain number of students. In this matter, a problem that education authorities have been recently facing is the legal obligation to enroll the child in the closest school to his home. This obligation comprises special education and nurseries, although this level is not legally classified as compulsory education.

Concerning special education, disabled students are entitled to the following basic rights: (i) free and inclusive public education, preferably in the regular education system, private and public;³⁶ (ii) a guarantee of equal conditions of access and permanence in school, giving an adequate opportunity for each student, depending on their singular needs;³⁷ (iii) priority in the fulfillment of the right to education by

the government authorities;³⁸ (iv) to be protected from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.³⁹

Regarding private schools, decisions about admitting pupils are made by each school autonomously and with independent criteria, under the constitutional and legal framework, and, of course, depend upon the family income and the shared values of the family and school. Recently Courts have decided that a student cannot be dismissed for not paying the school fee.

Decisions about staff

Teacher training and the quality of teaching are among the most discussed issues in Brazil education policies. Teacher training varies according to the level of education: for lower education, a higher education degree is required; for higher education a post-graduate degree is necessary. A B.A. or post-graduate degree in Pedagogy is required for the administration, planning, inspection, supervision and pedagogical counseling for primary education. Among the innovations introduced by the NEL, Education Colleges (called *institutos superiores de educação*) were created to prepare teachers for fundamental and secondary education, only.⁴⁰ More specifically, the Brazilian legislation accepts the following degrees in the exercise of teaching: degrees in Religious Science; Pedagogy; History, Philosophy, Social Sciences, and Psychology; diploma in Education, issued by the *institutos superiores de educação*. There are special categories of teachers such as the indigenous group teacher, and special education teachers. They have to qualify by following special courses and training before being admitted to teach.

The problem is that it is very difficult to implement these teachers' requirements in the interior and poorer regions of the country, especially at the first levels of education, and guarantee, at the same time, quality of education. The NEL tried to enforce these measures in the so called Decade of Education (1997/2007), the purpose of which was to only admit teachers with higher education or with supervised teacher training.⁴¹ This last requirement can substitute, in extraordinary circumstances and taking into consideration the enormous disparities that exist in a huge country like Brazil, the requirement of higher education for teaching in primary schools, as long as the teacher has had teacher education at secondary school level.⁴²

Access to the public teaching career is provided by each federal entity, by public competition through which only successful candidates will be admitted to become teachers or professors in the grade they have competed for. Teachers and professors come under public administration and are managed by the state government or the

municipal government according to the school grade they teach in. Private schools have independent recruitment procedures and criteria, linked of course to the values or mission of the school.

Accountability for school quality

Quality is still, together with equity and evaluation, one of the aspects of the Brazilian education policy framework most under debate. Before the 1990s, Brazil was far from establishing a national evaluation system, because of the heterogeneity of the different educational views in the country and the absolute lack of control of the differences among municipalities and states. There were at least three factors: the first was the autonomy of states and municipalities in education, established by the 1988 Constitution; the second was the differences in culture and socio-economic structure among regions, the third was the role of the central government that, for primary and secondary education, was only supplementary, providing financial and technical assistance if required.

The decision to reform the education system and provide a new policy framework was strictly related to the role of the central government, designated by the Constitution of 1988 to head the process by providing national guidelines and by implementing a quality control system (indeed, a further role of the federal government is to take responsibility for evaluation and quality control of the system and keep track of the national situation by providing statistics and information). The Government created the National Institute for Education Studies and Research (*INEP Instituto Nacional de Estudos e Pesquisas Educacionais*), in charge of all education statistics and evaluation at the national level. Once a year, INEP carries out a census of fundamental and secondary education, requiring the participation of all public and private schools in the country. The census allows the government to better implement national strategies and monitor the changes and demands in the country. In addition, the census is the basis for the distribution of public funds by the FUNDEB.

Although the work carried out by INEP is absolutely important and strategic for the country, Brazil still faces obstacles in reaching high quality standards in all the country. Contributing to that is the weakness of teacher education and training and the socio-economic problems faced in many regions of the country. To identify areas in which quality can be improved Brazil is investing a lot in evaluation and information flows.

Concerning basic education, the most important assessment tool is the SAEB - National System of Evaluating Basic Education (*Sistema Nacional de Avaliação da Educação Básica*). Administered by the Ministry of Education - MEC, it is given to students from public and private schools in the country, in rural and urban areas, enrolled in basic education from the 1st to the 8th level of fundamental schooling and also in the 3rd year of high school. For students of the 1st to 3rd grades of fundamental education, the test is called *Prova Brasil*; the students are selected randomly and tested on Portuguese and Mathematics. The results of the SAEB compose the IDEB – Development Index of Basic Education, a tool to define public policies nationwide. On a scale of 0 to 10, the Ministry of Education has established an average grade of 6, to be achieved, nationwide, by 2021; this grade was defined based on the proficiency average of the developed countries of OECD. In 2009, the IDEB results show that the SAEB index had increased 8.5%, from the 1st to 4th grade: it was 175.8 in 2007 and 184.3 in 2009. In mathematics, the grade rose 10.8% on average. These results are very important considering their impact on the following school years.

Teaching of values

The independence given to schools and their autonomy in designing programs and a distinctive pedagogical approach leaves the door open to freedom of teaching values. Under the Federal Constitution, the teaching of religion is optional and shall be offered during the regular school hours of public fundamental schools.⁴³ As such, the NEL states that religion is considered part of the school curriculum but is not compulsory and has to take religious differences into account and avoid proselytism.⁴⁴ Municipalities and states, after promoting hearings with the civil society, have the responsibility of deciding on the religious content and establishing criteria for the accreditation of teachers and professors.

The regulation of religious education in Brazil presents peculiarities compared to other disciplines of the syllabus. Firstly, it is the only case of exemption from federal jurisdiction in establishing national guidelines and provides differentiated regulations in states and municipalities. Secondly, though the teaching of religion is part of the content of the right to education as much as is Portuguese or mathematics, it is an optional subject unlike the other disciplines.

Endnotes

- ¹ Mello e Souza and Valle Silva, 375
- ² Plank, Amaral Sobrinho, and Ressurreição Xavier, 24
- ³ Gomes-Neto and Hanushek, 435
- ⁴ Maura Castro, Pinto Guimarães, Araújo e Oliveira and Costa Ribeiro, 498a
- ⁵ Law 9394/1996
- ⁶ Law 10.172/01
- ⁷ Federal Constitution, Articles 6 and 205
- ⁸ *Ibid.*, Article 206, I
- ⁹ *Ibid.*, Article 227
- ¹⁰ *Ibid.*, Article 208, § 1
- ¹¹ *Ibid.*, Article 208, §2
- ¹² Law 9394/1996
- ¹³ Law no. 10.172/01
- ¹⁴ Law 8.069/1990
- ¹⁵ Law No. 7,347 of 24 July 1985
- ¹⁶ Law No. 8,429 of 11 June 1992
- ¹⁷ Law No. 1,079 of 10 April 1950, and Decree-Law No. 201, 27 February 1967
- ¹⁸ Federal Constitution of 1946, Articles 170 and 171
- ¹⁹ Law no. 4024
- ²⁰ Law no. 9.394/1996, the so called *Lei de Diretrizes e Bases da Educação* – LDB

²¹ Federal Constitution, Articles 167, IV and 218, paragraph 5

²² Constitutional Amendment 53, of 20 December 2006

²³ Constitutional Amendment 14, of 12 September 1996

²⁴ Federal Constitution, Article 213

²⁵ NEA, Article 77

²⁶ NEL, Articles 9 and 10

²⁷ James, Primo Braga, and Afonso de Andre, 485

²⁸ Maura Castro, Pinto Guimarães, Araujo e Oliveira and Costa Ribeiro, 502-505

²⁹ Law No. 8,096/90

³⁰ Writ of Mandamus no. 7.407 – DF

³¹ Article 226

³² Federal Constitution, Article 208

³³ NEL, Article 81

³⁴CF, Article 127

³⁵ CF, Articles 127 e 129, III

³⁶ CF, Article 205

³⁷ CF, Article 206, I

³⁸ CF, Article 227

³⁹ CF, Article 227

⁴⁰ NEL, Article 63

⁴¹ *Ibid.*, Article 87

⁴² *Curso Normal*, cf. Article 62

⁴³ Federal Constitution, Article 210

⁴⁴ *Ibid.*, Article 33

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